

*B2*  
*SUB C1*  
*CORR*

under this patent or under the Plant Variety Protection Act (7 USC 2321 et seq.) which may protect Hybrid Maize Line 39J26.

**In the Claims**

Please amend claims 1, 5-8, 10-12, 14-16, 18-21, 23-25, 27-29 and 31-32 as follows:

**1. (Amended)**

*B3*  
*SUB D1*

Hybrid maize seed designated 39J26, representative seed of said hybrid 39J26 having been deposited under ATCC accession number PTA-4266.

**5. (Amended)**

*SUB C2*

A tissue culture of regenerable cells of a hybrid maize plant 39J26, representative seed of said hybrid maize plant 39J26 having been deposited under ATCC accession number PTA-4266.

**6. (Amended)**

*B4*

The tissue culture according to claim 5, the cells or protoplasts of said cells having been isolated from a tissue selected from the group consisting of leaves, pollen, embryos, roots, root tips, anthers, silks, flowers, kernels, ears, cobs, husks, and stalks.

**7. (Amended)**

A maize plant, or its parts, regenerated from the tissue culture of claim 5 and capable of expressing all the morphological and physiological characteristics of hybrid maize plant 39J26, representative seed having been deposited under ATCC accession number PTA-4266.

**8. (Amended)**

*SUB C2*

The maize plant of claim 2 wherein said plant further comprises a genetic factor conferring male sterility.

## 10. (Amended)

The method of claim 9 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

B5

## 11. (Amended)

A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 2, wherein said maize plant has derived at least 50% of its ancestral alleles from 39J26 and is capable of expressing a combination of at least two 39J26 traits selected from the group consisting of: a relative maturity of approximately 80 based on the Comparative Relative Maturity Rating System for harvest moisture of grain, excellent silage yield potential, excellent grain yield potential, high energy content for whole plant silage, excellent seedling vigor, excellent starch content of the whole plant, early flowering, and particularly suited to the Pacific Northwestern region of the United States and bordering area of Canada and to Northern Europe.

## 12. (Amended)

The hybrid maize plant according to claim 2, wherein the genetic material of said plant contains one or more transgenes.

## 14. (Amended)

The method of claim 13 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

## 15. (Amended)

A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 12, wherein said maize plant has derived at least 50% of its ancestral alleles from 39J26 and is capable of expressing a combination of at least two 39J26 traits selected from the group consisting of: a relative maturity of approximately 80 based on the

Comparative Relative Maturity Rating System for harvest moisture of grain, excellent silage yield potential, excellent grain yield potential, high energy content for whole plant silage, excellent seedling vigor, excellent starch content of the whole plant, early flowering, and particularly suited to the Pacific Northwestern region of the United States and bordering area of Canada and to Northern Europe.

16. (Amended)

The hybrid maize plant according to claim 2, wherein the genetic material of said plant contains one or more genes transferred by backcrossing.

18. (Amended)

The method of claim 17 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

19. (Amended)

A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 16, wherein said maize plant has derived at least 50% of its ancestral alleles from 39J26 and is capable of expressing a combination of at least two 39J26 traits selected from the group consisting of: a relative maturity of approximately 80 based on the Comparative Relative Maturity Rating System for harvest moisture of grain, excellent silage yield potential, excellent grain yield potential, high energy content for whole plant silage, excellent seedling vigor, excellent starch content of the whole plant, early flowering, and particularly suited to the Pacific Northwestern region of the United States and bordering area of Canada and to Northern Europe.

20. (Amended)

A maize plant, or its parts, having all of the morphological and physiological characteristics of the plant of claim 2.

B17  
21. (Amended)

The maize plant of claim 20 wherein said maize plant further comprises a genetic factor conferring male sterility.

B18  
23. (Amended)

The method of claim 22 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

24. (Amended)

A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 20, wherein said maize plant has derived at least 50% of its ancestral alleles from 39J26 and is capable of expressing a combination of at least two 39J26 traits selected from the group consisting of: a relative maturity of approximately 80 based on the Comparative Relative Maturity Rating System for harvest moisture of grain, excellent silage yield potential, excellent grain yield potential, high energy content for whole plant silage, excellent seedling vigor, excellent starch content of the whole plant, early flowering, and particularly suited to the Pacific Northwestern region of the United States and bordering area of Canada and to Northern Europe.

25. (Amended)

The hybrid maize plant according to claim 20, wherein the genetic material of said plant contains one or more transgenes.

B19  
27. (Amended)

The method of claim 26 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

## 28. (Amended)

A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 25, wherein said maize plant has derived at least 50% of its ancestral alleles from 39J26 and is capable of expressing a combination of at least two 39J26 traits selected from the group consisting of: a relative maturity of approximately 80 based on the Comparative Relative Maturity Rating System for harvest moisture of grain, excellent silage yield potential, excellent grain yield potential, high energy content for whole plant silage, excellent seedling vigor, excellent starch content of the whole plant, early flowering, and particularly suited to the Pacific Northwestern region of the United States and bordering area of Canada and to Northern Europe.

## 29. (Amended)

The hybrid maize plant according to claim 20, wherein the genetic material of said plant contains one or more genes transferred by backcrossing.

## 31. (Amended)

The method of claim 30 wherein plant breeding techniques are selected from the group consisting of: recurrent selection, backcrossing, pedigree breeding, restriction fragment length polymorphism enhanced selection, genetic marker enhanced selection, and transformation.

## 32. (Amended)

A maize plant, or its parts, wherein at least one ancestor of said maize plant is the maize plant, or its parts, of claim 29, wherein said maize plant has derived at least 50% of its ancestral alleles from 39J26 and is capable of expressing a combination of at least two 39J26 traits selected from the group consisting of: a relative maturity of approximately 80 based on the Comparative Relative Maturity Rating System for harvest moisture of grain, excellent silage yield potential, excellent grain yield potential, high energy content for whole plant silage, excellent seedling vigor, excellent starch content of the whole plant, early flowering, and particularly suited to the Pacific Northwestern region of the United States and bordering area of Canada and to Northern Europe.

Please add new claims 33 - 41 as follows:

33. (New)

A method of making a hybrid maize plant designated 39J26 comprising:  
crossing an inbred maize plant GE515243, deposited as PTA-4280 with a second inbred maize  
plant GE515344, deposited as PTA-4342; and  
developing from the cross a hybrid maize plant representative seed of which having been  
deposited under ATCC Accession Number PTA-4266.

34. (New)

A method of making an inbred maize plant comprising:  
obtaining the plant of claim 2 and  
applying double haploid methods to obtain a plant that is homozygous at essentially every locus,  
said plant having received all of its alleles from maize hybrid plant 39J26.

35. (New)

A method for producing an 39J26 progeny maize plant comprising:  
(a) growing the plant of claim 2, and obtaining self or sib pollinated seed therefrom; and  
(b) producing successive filial generations to obtain a 39J26 progeny maize plant.

36. (New)

A maize plant produced by the method of claim 35, said maize plant having received all  
of its alleles from hybrid maize plant 39J26.

37. (New)

The maize plant of claim 36 wherein said maize plant comprises 2 or more 39J26  
characteristics described in Table 1 or 2 or 3 or 4.

## 38. (New)

A method for producing a population of 39J26 progeny maize plants comprising:

- (a) obtaining a first generation progeny maize seed produced by crossing the maize plant of claim 2 with a second maize plant;
- (b) growing said first generation progeny maize seed to produce F<sub>1</sub> generation maize plants and obtaining self-pollinated seed from said F<sub>1</sub> generation maize plants; and
- (c) repeating the steps of growing and harvesting successive filial generations to obtain a population of 39J26 progeny maize plants.

## 39. (New)

B21  
The population of 39J26 progeny maize plants produced by the method of claim 38, said population, on average, deriving at least 50% of its ancestral alleles from 39J26.

## 40. (New)

A 39J26 maize plant selected from the population of 39J26 progeny maize plants produced by the method of claim 38, said maize plant deriving at least 50% of its ancestral alleles from 39J26.

## 41. (New)

The method of claim 38, further comprising applying double haploid methods to said F<sub>1</sub> generation maize plant or to a successive filial generation thereof.